

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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TOMMIE LEE MCDOWELL, JR.,

Plaintiff,

v.

MR. REMINGTON, et al.,

Defendants.

3:09-CV-00315-LRH-VPC

ORDER

Before the court is Plaintiff's objection to magistrate judge's ruling pursuant to Local Rule IB 3-1 (#70<sup>1</sup>). Defendants filed a response (#71), and Plaintiff filed a reply (#72). The objection seeks reconsideration of the magistrate judge's ruling (#69) denying Plaintiff's motion for leave to file an amended complaint (#42).

The magistrate judge's denial of leave to amend is a final determination of a pretrial matter pursuant to the magistrate judge's authority under 28 U.S.C. § 636(b)(1)(A) and Local Rule IB 1-3. Accordingly, a district judge may reconsider the magistrate judge's order only if it is "clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); LR IB 3-1(a).

Having considered the parties' briefing, the court concludes that the magistrate judge's denial of leave to amend the complaint is neither clearly erroneous nor contrary to law. Plaintiff's

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<sup>1</sup>Refers to the court's docket entry number.

1 allegations in support of his Eighth Amendment claim are identical to the allegations in his original  
2 complaint. Also, notwithstanding the amended allegations supporting Plaintiffs' claims under the  
3 First and Fourteenth Amendments, the allegations fail to state a claim for the same reasons stated  
4 in this court's screening order of March 11, 2010 (#13). Because the proposed amendments would  
5 be futile, leave to amend was properly denied.

6 IT IS THEREFORE ORDERED that Plaintiff's objection to magistrate judge's ruling (#70)  
7 is DENIED.

8 IT IS SO ORDERED.

9 DATED this 17th day of November, 2010.

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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE  
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